

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Federal Express Corporation

for exemption from § 25.1423(c) of Title 14,
Code of Federal Regulations

Regulatory Docket No. 28696

PARTIAL GRANT OF EXEMPTION

By letter dated July 9, 1998, Mr. Edward F. Sawyer, Manager, Avionics/Systems Engineering, LAX Operations, Federal Express Corporation (FedEx), 7401 World Way West, Los Angeles, CA 90045-0050, petitioned the FAA for relief from certain conditions imposed as part of Exemption No. 6652 issued to FedEx on June 26, 1997, to permit the accommodation of supernumerary animal handlers on DC-10 and MD-11 airplanes. Relief is sought from a condition relating to decompression alert notification in the lavatory, and from a condition relating to accessibility of Public Address (PA) messages in the lavatory.

The petitioner requests relief from the following regulations:

Section 25.1423(c) requires, in pertinent part, that a required PA system must be intelligible at all passenger seats, lavatories... .

Related Sections of the FAR:

Section 25.1447(c)(1) requires, in pertinent part, that oxygen masks must be immediately available to each seated occupant, be automatically deployed with manual backup. . . .

ANM-98-037-E

Section 25.1447(c)(3) requires, in pertinent part, that two masks required by § 25.1447(c)(1) must be in each lavatory.

The petitioner's supportive information is as follows:

Condition #2: Condition #2 of Exemption No. 6652 states, “The proposed PA system shall include the capability for announcements throughout the main deck area, including the lavatory, from the supernumerary seat pallet area.”

“We [Federal Express] do not believe the necessity exists for PA announcements made from the supernumerary seat pallet area to be discernible in the lavatory. We fully agree that PA announcements made from the seat pallet area will be heard throughout the main deck area.

“Our only lavatory is located in an area just aft of the cockpit, and is certified for crew and supernumerary operation. This area is commonly called the courier area. The existing lavatory is not equipped with a speaker for flight safety announcements: it is equipped with an illuminated ‘return to seat’ sign that is crew-activated. Flight-safety crew announcements are currently broadcast over speakers in the courier area; these announcements are discernible in the lavatory, and along with the ‘return to seat’ illuminated sign, have served to meet certification requirements by McDonnell Douglas, now Boeing.

“Additionally, no safety announcement will be made from the seat pallet area. Any safety issues noted in the seat pallet area will be communicated to the flight deck by a FedEx loadmaster via the newly installed flight interphone link. The crew would then, if required, make safety announcements, discernible in the courier area as well as in the main deck area after modification.

“Based on the above reasoning, we request that the words, ‘including the lavatory’ be deleted from page 12, Item 2 of reference 1.” [Condition # 2 of the exemption]

Condition #4: Condition #4 of Exemption No. 6652 states, “In lieu of the notification function normally provided by automatically presented oxygen masks, a dedicated audible decompression alert shall be provided which is automatically actuated (with a manual backup) in a manner described in § 25.1447(c)(1). This alert should be audible and recognizable in flight throughout the main deck area including lavatory.”

“The requirement for a dedicated audible alert in the main deck area is accepted and appreciated. Our plan is to install three 80-db level Sonalerts to advise those performing duties

on the main deck to don oxygen masks, since automatic mask deployment will not exist in the seat pallet area. In our lavatory, oxygen masks are automatically deployed, and since this installation is certified, we feel that any requirement to have the main-deck Sonalerts audible and recognizable in the lavatory is not needed. We believe that our planned Sonalert installation will provide an audible and recognizable alert capable of being detected in the lavatory, we just do not believe that this should be a requirement since, as previously stated, lavatory oxygen masks are deployed automatically.

“Based on the above comments, we request that the words, ‘including lavatory’ be deleted from page 12, Item 4 of reference 1.” [Condition # 4 of the exemption]

The FAA finds, for good cause, that action on this petition need not be delayed by Federal Register publication and comment procedures for the following reasons: (1) the grant of relief relative to the lavatory supplemental oxygen and notification system does not set a precedent, results in full compliance with part 25 requirements, and therefore would not create a public safety issue, and (2) the denial of relief relative to the PA system and the lavatory merely reaffirms the condition imposed in the initial exemption document.

The FAA's analysis/summary is as follows:

Condition #2: In FedEx’s initial petition for exemption, there was no information presented relative to the intelligibility within the lavatory of PA announcements initiated from the supernumerary’s seating area. Therefore, Condition #2 was imposed to ensure that the intent of general PA system requirements as included in § 25.1423 would not be inadvertently overlooked. Federal Express’ current request ostensibly seeks relief from Condition #2 of the exemption, but must be viewed, in effect, as a petition for exemption from the requirements of § 25.1423(c), and is considered accordingly. In reviewing FedEx’s petition, it is first noted that full compliance with the intent of the general requirements of § 25.1423, as well as with the specific requirements of § 25.1423(c), would result in PA announcements being discernible at all passenger locations, regardless of where those announcements were initiated. The obvious benefit of a system configured in this manner is that regardless of any announcement protocols established among the crew, any crewmember has the capability to initiate safety announcements when conditions warrant. By contrast, FedEx proposes a communications system configured such that a lavatory occupant may not receive a communication directly from the supernumerary PA system, but must receive that communication via the flightcrew PA system, after it has first been communicated to the flightcrew from the supernumerary station via flight interphone. The FAA considers that, irrespective of FedEx’s intentions relative to who is designated responsible for “safety” announcements, etc., the proposed relay system of communication does not provide an acceptably equivalent reliability of communication, and has the further disadvantage of distracting flightcrew from their duties when only “normal”

supernumerary PA communication is desired to a lavatory occupant. In addition, no public interest justification for the exemption is provided in accordance with the requirements of § 11.25(b)(5). The petition on this topic is accordingly denied.

Condition #4: Federal Express' request for relief from a requirement of Condition #4 relative to an audible decompression notification in the lavatory is viewed favorably. Mandating an audible alert in a lavatory which already features automatically presented oxygen masks in accordance with the requirements of § 25.1447(c) was unintentional. The intention of Condition #4 was to mandate the audible alert only where automatically presented masks were not provided. Accordingly, the relief sought is granted, and Condition #4 is revised to read as initially intended, below.

General Condition: The determinations relative to this exemption have been made by the FAA without any credence or relevance necessarily given to Federal Express' several references to a "certified" status of a lavatory and especially a "courier station," both located forward. As a general item, it should be noted that no accommodations for supernumerary occupants, on aircraft with a Class E cargo compartment, may be installed beyond those originally provided as part of an initial type design approval without the express authorization to do so by the FAA Transport Airplane Directorate, via a formal grant of exemption from at least the requirements of § 25.857(e), issued in accordance with the provisions of § 11.25. Specifically, Exemption No. 6652, as amended, requires that the aircraft be operated only under the terms discussed in that exemption, and necessarily presumes that the "courier station" not addressed in that exemption is prohibited from being concurrently occupied. Similarly, any grant of exemption which may be or may have been issued to permit the installation and occupancy of the referenced "courier station," without addressing the installations and occupancy provisions of Exemption No. 6652, as amended, shall necessarily prohibit the concurrent installations and occupancy addressed in this exemption.

In consideration of the foregoing, subject to the General Condition discussed immediately above, I find that a partial grant of exemption is in the public interest.

With regard to requirements relative to decompression notification in the lavatory, the relief sought is determined to not have an adverse effect on the level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), the portion of Federal Express' petition for relief from Condition #4 of Exemption No. 6652, which prescribes an audible alert in the lavatory, is granted. Accordingly, Condition #4 is revised to read as follows:

4. In lieu of the notification function normally provided by automatically presented oxygen masks, a dedicated audible decompression alert shall be provided which is

automatically actuated (with manual backup) in a manner described in § 25.1447(c)(1). This alert should be audible and recognizable in flight throughout the main deck area. This audible alert may, but need not, be audible in the lavatory.

With regard to the portion of Federal Express' petition for exemption from PA intelligibility in the lavatory, I find that a grant of exemption is not in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), the petition of Federal Express for an exemption from the requirements of § 25.1423(c) in this regard is hereby denied.

Other provisions of Exemption No. 6652, together with its conditions and limitations, remain the same and are applicable to this exemption. This amendment is part of, and shall remain attached to, Exemption No. 6652.

Issued in Renton, Washington, on

Stewart R. Miller
Acting Manager,
Transport Airplane Directorate,
Aircraft Certification Service, ANM-100